

REMARKS

At the outset, Applicant requests an interview to advance prosecution.

Claims 1-26 are pending.

Applicant amends claims 1, 2, 6, 11, 15, 19, 22, 23, 25, and 26 to more clearly define the features of those claims.

The Examiner rejected claims 1-26 under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,970,476 to Jonsson et al. (Jonsson) in view of U.S. Patent Application Publication No. 2003/0012278 to Banerji et al. (Banerji) and further in view of U.S. Patent Application No. 6,151,627 to McBride et al. (McBride). Applicant respectfully traverses this rejection.

The key consideration in a proper rejection under 35 U.S.C. 103(a) is not whether the pending claims can be used as a "shopping list" for searching of the prior art for descriptions of features for assembly in a manner that is allegedly similar to the claimed subject matter, but rather whether the prior art references, each taken in their entirety for all that they would reasonably teach to one of ordinary skill in the art at the time of the instant invention, would have rendered the instantly claimed subject matter unpatentably obvious. Unfortunately, the rejections proffered by the Office in this matter have emphasized the first approach in assembling piecemeal elements from several references to create an alleged basis for prima facie obviousness while failing to properly consider whether the cited references, when taken as a whole, properly suggest the instantly claimed subject matter in a manner that would have caused one of ordinary skill in the art at the time of the present invention to have deemed it obvious.

Turning now to claim 1, it recites the following features:

selectively updating a compression history at a compressor based on a first algorithm configured to determine whether a payload of a packet is to be compressed, and based on a second algorithm configured to determine whether the compressed packet is to be used for the updating of the compression history, the compression history used for compression of another payload of a subsequent packet.

In some implementations consistent with claim 1, a compression history (which is used to compress the payload of packets transmitted via TCP) is selectively updated based on a first algorithm and a second algorithm. The first algorithm determines whether a payload of a packet is to be compressed (e.g., based on one or more considerations, such as compressibility of the packet, CPU limitations, and memory limitations). The second algorithm then determines whether the compression history should be updated with the compressed packet. For example, the size limitations of buffer memory (which includes the compression history) may result in situations in which the compression history should not be updated with the compressed packet. In these instances, the first and second algorithms enable a determination of which compressed packets should be included in the compression history, providing thus a more flexible usage of buffer memory. See, e.g., instant specification at paragraph 0032.

In contrast to claim 1, Jonsson discloses a context update procedure when a packet is lost. Jonsson also discloses header compression context updates by sending anticipatory context update requests before decompressor context invalidation is detected. As an initial matter, Applicant respectfully submits that Jonsson relates to header compression rather than payload compression. Furthermore, nowhere does Jonsson disclose or suggest selectively updating a compression history (which is used

for payload compression) based on the first and second algorithms, much less "selectively updating a compression history at a compressor based on a first algorithm configured to determine whether a payload of a packet is to be compressed, and based on a second algorithm configured to determine whether the compressed packet is to be used for the updating of the compression history, the compression history used for compression of another payload of a subsequent packet."

Recognizing the shortcomings of Jonsson, the Examiner further relies on Banerji and McBride to cure the gaps in Jonsson. However, Banerji and McBride fail to cure the above noted deficiencies of Jonsson for at least the reasons given below.

Applicant notes that the Examiner has committed a clear error stating that a packet is a frame. Office Action, page 3. "As a general rule, claim language carries the meaning of the words in their normal usage in the field of the invention." *Rambus Inc. v. Infineon Tech. AG*, 318 F.3d 1081, 1088, 65 USPQ2d 1705, 1709 (Fed. Cir. 2003). Here, the Examiner alleges that McBride's frame is the same as a packet. Applicant submits that this is a clear error as one of ordinary skill in the art would not agree with the Examiner's position. Indeed, if the Examiner is taking official notice with respect to what constitutes a packet, Applicant requires a document or an affidavit as required by M.P.E.P. 2144.03. In any case, Applicant has amended claim 1 to recite "a payload of a packet" to make clear that the McBride frame is inapposite.

Moreover, Banerji discloses a method for compressing video, but the video compressor of Banerji fails to cure the aforementioned deficiencies of Jonsson.

Furthermore, McBride discloses in-line monitoring of a communication link between two stations. Compressed frames are received at a frame processor which

attempts to decompress the frame if it is compressed. McBride, col. 2 line 58 to col. 3 line 26. At best, McBride thus discloses receiving a frame and checking whether it is compressed. However, nowhere does McBride disclose or suggest an algorithm used to determine whether to compress the frame, much less an algorithm to determine whether a packet is to be compressed. Thus, McBride fails to cure the aforementioned deficiencies of Jonsson and Banerji.

In view of the foregoing, neither Jonsson, Banerji, nor McBride discloses or suggests the following feature of claim 1: "selectively updating a compression history at a compressor based on a first algorithm configured to determine whether a payload of a packet is to be compressed, and based on a second algorithm configured to determine whether the compressed packet is to be used for the updating of the compression history, the compression history used for compression of another payload of a subsequent packet." Therefore, claim 1 is allowable over Jonsson, Banerji, and McBride, whether these references are taken individually or in combination, and the rejection of claim 1 under 35 U.S.C. §103(a) should be withdrawn.

Independent claims 6, 11, 15, 19, 22, 23, 24, 25, and 26, include similar features as noted above with respect to claim 1. For at least the reasons noted above with respect to claim 1, independent claims 6, 11, 15, 19, 22, 23, 24, 25, and 26 as well as claims 2-5, 7-10, 12-14, 16-18, 20, and 21, at least by reason of their dependency from their independent claims, are allowable over Jonsson, Banerji and McBride, whether these references are taken individually or in combination, and the rejection of those claims under 35 U.S.C. §103(a) should be withdrawn.

Regarding the motivation to combine, the Examiner's modifications to Jonsson,

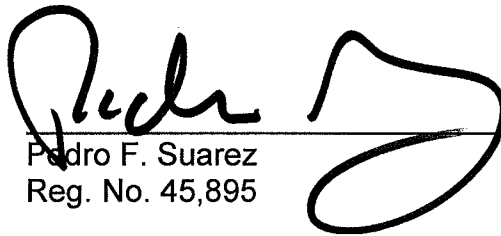
Banerji, and McBride fundamentally change the principal of operation of those references. For example, the Examiner reconstruction of Jonsson fundamentally changes the header compression protocol of Jonsson. Likewise, Banerji discloses compression of motion data information. The motion data is split and then compressed. On the other hand, McBride discloses receiving frames which may or may not be compressed. Since Banerji's files are always compressed whereas McBride's frames are not always compressed, the Examiner has fundamentally changed the principle of operations of Banerji and McBride. The Examiner's modifications of Jonsson, Banerji, and McBride thus clearly run afoul of M.P.E.P 2143.03 which states "[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)." Therefore, the rejection under 35 U.S.C. § 103(a) of the instant claims should be withdrawn for this additional reason.

CONCLUSION

On the basis of the foregoing amendments, the pending claims are in condition for allowance. It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

No fee is believed to be due, however, the Commissioner is hereby authorized to charge any fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 39700-783001US/NC37129US. If there are any questions regarding this reply, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,


Pedro F. Suarez
Reg. No. 45,895

Date: 8 March 2010

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
3580 Carmel Mountain Road, Suite 300
San Diego, CA 92130
Customer No. 64046
Tel.: 858/314-1540
Fax: 858/314-1501